

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Case No.: 15-43716-nhl

Jacob Fetman,

Chapter 7

Debtor.
-----X

**TRUSTEE’S RESPONSE TO OPPOSITION
TO MOTION TO FOR CONTEMPT**

TO THE HONORABLE NANCY HERSHEY LORD
UNITED STATES BANKRUPTCY JUDGE:

Robert J. Musso (“Trustee”), by his attorneys, Rosenberg, Musso & Weiner, as his response to the opposition filed by Jacob Fetman (the “Debtor”) to the Trustee’s motion to hold the Debtor in contempt, respectfully represents:

1. On August 11, 2015 (“Filing Date”), an involuntary petition for relief under Chapter 11 of Title 11 United States Code (the “Bankruptcy Code”) was filed against Jacob Fetman (the “Debtor”) and on October 28, 2015, the Trustee was appointed as trustee of the Debtor’s estate. On November 21, 2015, this Court entered an order for relief under Chapter 7 of the Bankruptcy Code.

2. The Trustee filed a motion to hold the Debtor in contempt for his failure to comply with this Court’s order awarding the Trustee fees and expenses and for his failure to produce all of the documents in the Rule 2004 order and requested at the initial Rule 2004 examination.

3. The Debtor’s opposition to the motion is that he has produced more documents and that he does not have the money to pay the Trustee the amounts awarded. Neither objection has any merit. The Debtor did produce more documents in September 2016 and on November 1, 2016. The Trustee is reviewing the documents to see if the Debtor has now, at long last, produced all the

documents. This court at a hearing in May told the Debtor that the Court would award the Trustee costs. The Debtor did not raise inability to pay as a defense. Trustee's counsel sent Debtor's counsel a proposed order. After much back and forth, and the changed circumstances that the Debtor did produce some documents and appear for the initial examination, this Court, on September 8, 2016, signed the order awarding the Trustee fees and costs. The Debtor did not object to the order before it was signed and did not either move for reconsideration or appeal from the order after it was signed. He has not filed a motion to be relieved from the terms of the order and such a motion would be without merit. The Debtor collects substantial rents each month from properties that the Trustee believes he fraudulently transferred to his wife and he appears to be capable of paying his attorneys. The amount awarded by the Court was not large and the Debtor is capable of obtaining the money to pay the award. This Court stated in the order, and at the May 2016 hearing, that the Debtor needed to pay the award to avoid being held in contempt. The Debtor failed to pay and this Court should do that which it told the Debtor it would do, find the Debtor to be in contempt and award more fees and costs to the Trustee, including a daily fine until the Debtor complies with the orders of this Court.

WHEREFORE, it is respectfully requested that this Court overrule the Debtor's opposition and grant the Trustee's motion, together with such other and further relief as is just and proper.

Dated: Brooklyn, New York
November 7, 2016

ROSENBERG, MUSSO & WEINER, LLP
Attorneys for the Trustee

By: /s/
Bruce Weiner
26 Court Street, Suite 2211
Brooklyn, New York 11242
(718) 855-6840